



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,189	06/26/2001	David Z. Creemer	PALM-3590	3909

7590 10/28/2005
WAGNER, MURABITO & HAO LLP
Third Floor
Two North Market Street
San Jose, CA 95113

EXAMINER

DALENCOURT, YVES

ART UNIT PAPER NUMBER

2157

DATE MAILED: 10/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/893,189

Applicant(s)

CREEMER ET AL.

Examiner

Yves Dalencourt

Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,24-30,32 and 33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7,32 and 33 is/are allowed.
- 6) ☒ Claim(s) 24-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This office action is responsive to Request for Continued Examination (RCE) filed on 08/05/2005.

Response to Amendment

The examiner has acknowledged the amended claims 1 – 6, 24, 28, the cancellation of claim 31, and the submission of new claim 33.

Response to Arguments

Applicant's arguments, see amendment, filed on 08/05/2005, with respect to claims 1 – 7 and 32 - 33 have been fully considered and are persuasive. The rejection under 35 U.S.C. 102(e) and 103(a) of claims 1 – 7 and 32 - 33 has been withdrawn due to the added limitations in claims 1 and 5. However, claims 24 – 30 still stand rejected under 35 U.S.C. 102(e) and 103(a) as follows:

Regarding Applicant's argument (page 9, first paragraph), the examiner contends that McCall does suggest sending a verifiable identity of a portable electronic device in addition to automatically captured data comprising location data of the device (McCall discloses that the one who provided information that is ultimately sold to another will be rewarded. This is an incentive for gathering information. We received, analyze (verifying the source) and consolidate various pieces of information and can provide that information in a desired format to consumers of that information (see paragraph [0027])).

In view of such the rejection of claims 24 – 30 is sustained and repeated as follows:

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 24 – 26, 28, and 32 are rejected under 35 U.S.C. 102(e) as being anticipated by McCall et al (US 2002/0188522; hereinafter McCall).

Regarding claims 24, 28, and 32, McCall teaches in a portable electronic device connected to a wireless communication link, said portable electronic device corresponding to a user, a method for said portable electronic device to supply geographically distributed data (fig. 5; paragraphs [0018], and [0032]), comprising receiving a command from said user to automatically capture data (paragraph [0026], lines 1 – 8; McCall discloses that we use the first report to trigger other digital assets in the area to also be on the look out and to begin data collection); automatically capturing said data (paragraphs 0055 and 0075; McCall discloses that at least one sensor is being used for capturing data in the proximity of a current event or condition (claimed capturing data automatically); transmitting said automatically captured data and wherein said automatically captured data comprises location data of said portable electronic device (paragraph [0026], lines 8 – 12; McCall discloses that the video and/or audio data are sent to a central repository where they are analyzed, repackaged to create

value added real-time information of the event in progress); and sending a verifiable identity of said portable electronic device (paragraph [0027]).

Regarding claims 25 and 29, McCall teaches in a computer server connected to a plurality of electronic devices via a wireless communication link (fig. 5), wherein said electronic device is a palm-sized computer system (fig. 5; paragraph [0048]).

Regarding claim 26, McCall teaches in a computer server connected to a plurality of electronic devices via a wireless communication link (fig. 5), wherein said electronic device is a wireless telephone (fig. 5; paragraph [0048]).

Regarding claim 30, McCall teaches the method as described in claim 28, wherein said portable electronic device is a wireless telephone (fig. 5; paragraph [0048]).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over McCall et al (US 2002/0188522; hereinafter McCall) in view of McDonnell et al (US 6,799,032; McDonnell).

Regarding claim 27, McCall et al teaches all the limitations in claim 24, but fails to specifically teach that said transmitted geographically distributed data is encrypted.

However, Mc Donnell teaches, in an analogous art, a method of providing location data about a mobile entity, wherein said transmitted geographically distributed data is encrypted (fig. 7; col. 8, lines 22 – 65).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified McCall's device by encrypting said transmitted geographically distributed data for the purpose of preventing the location data from being altered or substituted without this being detectable.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Boris et al (US Patent Number 6,834,285) discloses a computer system for portable digital data capture and data distribution.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yves Dalencourt whose telephone number is (571) 272-3998. The examiner can normally be reached on M-TH 7:30AM - 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Yves Dalencourt


August 20, 2005